

**REMARKS / DISCUSSION OF ISSUES**

The present amendment is submitted in response to the Office Action mailed January 5, 2009. Claims 1-10 remain in this application. In view of the remarks to follow, reconsideration and allowance of this application are respectfully requested.

The claims in general are amended for one or more non-statutory reasons, for example to correct one or more informalities or obvious errors, remove figure label numbers, remove unnecessary limitations, and/or replace European claim phraseology with U.S. claim language having the same meaning. The claims are not believed to be narrowed in scope and no new matter is added. Entry after final action is proper because the scope of the claims is not changed and no further searching is required.

***I. Claim Rejection under 35 USC 103***

The Office has rejected claims 1-9 at paragraph 2 of the Office Action, under 35 U.S.C. §103(a), as being unpatentable over U.S. Patent Publication No. 2001/0017985 (“Tsuboi”) in view of U.S. Patent Publication No. 2002/0090168 (“Bartels”). Applicant respectfully traverses the rejection.

The cited portions of Tsuboi and Bartels, individually or in combination, fail to disclose or suggest the specific combination of claim 1. For example, the cited portions of Tsuboi fail to disclose or suggest, “means for using electrostatic forces to move at least a portion of one of said first fluid and second fluid from said lens chamber to said storage chamber“, as recited in claim 1. As admitted by the Office at par. 6 of the Office Action, Tsuboi do not teach a storage chamber that is fluidly connected with the lens chamber such that the lens chamber and the storage chamber together form a closed system. As such, Tsuboi cannot teach “means for using electrostatic forces to move at least a portion of one of said first fluid and second fluid from said lens chamber to said storage chamber“, as recited in claim 1. Tsuboi merely teaches that the liquid remains in the lens chamber (i.e., the liquids move between the boundaries of the hydrophilic film 112 and the repellent film 111. Tsuboi discloses at par. 52:

[0052] When the switch 127 is operated close to apply a voltage to the first liquid 121, the interfacial tension of the interface between the first liquid 121 and the hydrophilic film 112 is reduced by electrocapillarity, so that the first liquid enters the region on the repellent film 111 by passing the boundary between the hydrophilic film 112 and the repellent film 111.

[Emphasis Added]

The cited portions of Bartels fail to disclose or suggest, “means for using electrostatic forces to move at least a portion of one of said first fluid and second fluid from said lens chamber to said storage chamber“, as recited in claim 1. Instead, Bartels discloses the use of piezoelectrically driven actuators to move the fluids. Bartels discloses at par. 32:

[0032] In this case, the means considered for varying the position of the liquid within the cavity 10 is, in particular, known piezoelectrically driven actuators 14. Particular advantages of the fluidic control of light beams in miniaturized optical components arise from their miniaturized construction, since then the quantity of liquid to be moved can naturally be kept very small. In addition, high switching frequencies are also advantageously possible in the case of the actuators that are available in micro-fluidics. The abovementioned cavities 10, 101, 102 can be constructed in miniaturized forms as channels by means of microtechnical methods, and therefore the optical component 1 according to the invention can be produced very cost-effectively in large numbers.

Applicant respectfully submits that the piezoelectrically driven actuators contain moveable (mechanical) parts that are more sensitive to damage and are thus inferior and different from the use of electrostatic forces to move the fluids, which do not contain any moveable parts. Accordingly, Bartels does not disclose “means for using electrostatic forces to move at least a portion of one of said first fluid and second fluid from said lens chamber to said storage chamber“, as recited in claim 1.

Thus, the cited portions of Tsuboi and Bartels, individually or in combination, do not disclose or suggest “means for using electrostatic forces to move at least a portion of one of said first fluid and second fluid from said lens chamber to said storage chamber“, as recited in claim 1. Hence claim 1 is allowable.

Claims 2-9 depend from independent Claim 1 and therefore contain the limitations of Claim 1 and are believed to be in condition for allowance for at least the same reasons given for Claim 1 above. Accordingly, withdrawal of the rejection under 35 U.S.C. §103(a) and allowance of Claims 2-9 is respectfully requested.

## ***II. Claim Rejection under 35 USC 103***

The Office has rejected claim 10 at paragraph 13 of the Office Action, under 35 U.S.C. §103(a), as being unpatentable over Tsuboi and Bartels and further in view of U.S. Patent Publication No. 2004/0170422 (“Chauhan”). Applicant respectfully traverses the rejection.

### **Claim 10 is Allowable**

As explained above, Tsuboi and Bartels do not disclose or suggest each and every element of claim 1, from which claim 10 depends. Specifically, the cited portions of Tsuboi and Bartels, alone and in any combination, fail to disclose or suggest “*means for using electrostatic forces to move at least a portion of one of said first fluid and second fluid from said lens chamber to said storage chamber*“*, as recited in claim 1*. Chauhan does not disclose the elements of claim 1 that are not disclosed by Tsuboi and Bartels. Chauhan is merely cited by the Office for teaching that “the use of a focusable zoomable lens arrangement of claim 6 in a mobile phone with camera functionality”. Hence, there is no teaching or suggestion in Chauhan of “*means for using electrostatic forces to move at least a portion of one of said first fluid and second fluid from said lens chamber to said storage chamber*“, as recited in claim 1.

Therefore, the combination of Tsuboi, Bartels, and Chauhan do not disclose each and every element of claim 1, from which claim 10 depends. Hence, claim 10 is allowable.

### **Conclusion**

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1-10 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Mike Belk, Esq., Intellectual Property Counsel, Philips Electronics North America, at 914-945-6000.

Respectfully submitted,



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